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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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077814, 873 12/24/91 WAYNE

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EXAMINER

EX-128111

CHRISTENSEN, O'CONNOR
JOHNSON & KINNESS
2800 PACIFIC FIRST CENTRE
1420 EIGHTH AVE.
SEATTLE, WA 98101

ART UNIT

PAPER NUMBER

1806

12

DATE MAILED:

12/23/92

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

FOR RESTRICTION PURPOSES ONLY.

- ☒ This application has been examined. ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 0 month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-63 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-63 are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable, ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner, ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved, ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

15. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-5 and 32-36, drawn to a method of inhibiting adhesion with an antibody, classified in Class 424, 85.8.

II. Claims 6-11, 37-48 and 56-63, drawn to a method of inhibiting adhesion with a peptide, classified in Class 514, subclass 2.

III. Claims 12-25, drawn to a antibody and hybridoma, classified in Class 435, subclass 70.21, 172.2 and 240.27 and in Class 530, 387.1, 388.1, 388.7, 388.73 and 388.75.

IV. Claims 26-31 and 49-55, drawn to peptide pharmaceutical composition, classified in in Class 514, subclass 2 and Class 530, subclass 300. It is noted that applicant indicated that claims 50-55 were meant to be drawn to the composition of claim 49 and not to methods. Appropriate correction is required.

16. Inventions III and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the antibody product as claimed can be used in a materially different process such as immunopurification procedures or diagnostic assays.

17. Inventions IV and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the peptide product as claimed can be used in a materially different process such as affinity chromatograph or diagnostic assays.

18. Inventions I and II are different methods of use. These inventions require different ingredients and process steps to accomplish the use of antibodies and peptides. Therefore they are novel and unobvious in view of each other and are patentably distinct.

19. Inventions III and IV are different compositions. Antibodies and peptides are different in structure and mode of action. Therefore, they are novel and unobvious in view of each other and are patentably distinct.

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20. Inventions III and II are not related as products and a method of use. Therefore, they are novel and unobvious in view of each other and are patentably distinct.

21. Inventions IV and I are not related as products and a method of use. Therefore, they are novel and unobvious in view of each other and are patentably distinct.

22. Because these inventions are distinct for the reasons given above and the search required for any group from Groups I-IV is not required for any other group from Groups I-IV and Groups I-IV have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.

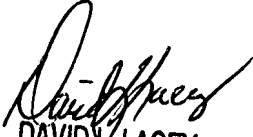
23. A telephone call was made to Thomas Broderick on 12/9/92 to request an oral election to the above restriction requirement, but did not result in an election being made.

24. Papers related to this application may be submitted to Group 180 by facsimile transmission. Papers should be faxed to Group 180 via the PTO Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CMI Fax Center telephone number is (703) 308-4227.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (703) 308-3997. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 180 receptionist whose telephone number is (703) 308-0196.

PG

Phillip Gambel, Ph.D.
December 21, 1992


DAVID L. LACEY
SUPERVISORY PATENT EXAMINER
GROUP 180
12/21/92